

STATE OF TENNESSEE

Office of the Attorney General



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REGULATORY AUTH.

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January 29, 2002

Mr. David Waddell
Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

Re: Petition of Citizens Telecommunications Co.
Of TN for Approval of Their Residential
"Win-Back" Promotion in the McMinnville
and Sparta Exchanges
Docket No. 02-00088

Dear Mr. Waddell:

Enclosed is an original and thirteen copies of the Complaint and Petition to Intervene in the above-referenced matter. Copies are being furnished to counsel of record for interested parties.

Sincerely,

TIMOTHY C. PHILLIPS
Assistant Attorney General

cc: Counsel of Record
52081

**IN THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE: PETITION OF CITIZENS)	DOCKET NO. 02-00088
TELECOMMUNICATIONS COMPANY)	
OF TENNESSEE FOR APPROVAL OF)	
THEIR RESIDENTIAL "WIN-BACK")	
PROMOTION IN THE MCMINNVILLE)	
AND SPARTA EXCHANGES)	

COMPLAINT AND PETITION TO INTERVENE

Comes Paul G. Summers, the Attorney General & Reporter, through the Consumer Advocate and Protection Division of the Office of Attorney General (hereinafter "Attorney General"), pursuant to Tenn. Code Ann. § 65-4-118 and Rule 1220-1-2-.02 of the Tennessee Regulatory Authority and respectfully complains and petitions to intervene in this case on behalf of the public interest since consumers may be affected by actions taken in this docket. The Attorney General complains and petitions as follows:

1. The Attorney General has a duty and the authority under Tenn. Code Ann. § 65-4-118(c)(2)(A) to represent the interests of Tennessee consumers of public utilities services.
2. The Attorney General is authorized by Tenn. Code Ann. §§ 65-4-118 and 65-5-210(b) to initiate, participate or intervene in proceedings to represent the public interest in

accordance with the Uniform Administrative Procedures Act (UAPA).

3. Citizens Telecommunications Company of Tennessee ("Citizens") is a telecommunications utility regulated by the Tennessee Regulatory Authority ("TRA") pursuant to Tenn. Code Ann. §§ 65-4-101 and 65-4-104. Its usual address for service is 300 Bland Street, Bluefield, West Virginia 24701.

4. Citizens filed a petition for approval of their "win-back" promotion for current Citizens' residential customers in Sparta and McMinnville exchanges who refer an existing CLEC customer to Citizens and the referred customer retains basic local residential service for one month. The referring customer receives a \$20 credit. The "win-back" customer who subscribes to Citizens' basic local residential service receives a credit of \$50 that is applied to each access line and spread over six (6) months at a rate of \$8.33 credit per month. In addition, they will receive a \$10 per month allowance in free features for their residential telephone service for up to three (3) months. If they subscribe to Caller ID technology, Citizens Select or Select Plus, they will receive a free Caller ID box. Additionally, all installation and activation fees associated with the promotion will be waived. However, Citizens is not intending to offer the "win-back" promotion to customers in their Weakley, Putnam and Cumberland county exchanges.

5. If the tariff allowing the "win-back" promotion becomes effective, it would result in unjust discrimination, undue and unreasonable preference and would be unreasonably prejudicial. Citizens should be required to offer the promotion in their other exchanges in Weakley, Putnam and Cumberland counties.

6. By permitting Citizens to limit their promotion by exchange, it would constitute

unjust discrimination to the customers in Citizens' other exchanges. Tenn. Code Ann. § 65-4-122(a) provides that a public service company that "directly or indirectly, by any special rate, rebate, drawback or other device, charges, demands, collects, or receives from any person a greater or less compensation for any service within this state than it charges, demands, collects or receives from any other person for service of a like kind under substantially like circumstances and conditions" and if such public service company "makes any preference between the parties aforementioned" such public service company "commits unjust discrimination, which is prohibited and declared unlawful." Unless the promotion is offered in Citizens' other exchanges in Weakley, Putnam and Cumberland counties, the residential "win-back" promotion would constitute unjust discrimination under Tennessee law.

7. If the customers in the McMinnville and Sparta exchanges receive the residential "win-back" promotion, then Citizens would be giving them an undue or unreasonable preference or advantage over customers in the Weakley, Putnam and Cumberland county exchanges because they would be not be able to receive the benefits of the "win-back" program since Citizens has not extended the waiver to those customers. Tenn. Code Ann. § 65-4-122(c) states "[i]t is unlawful for any such corporation to make or give an undue or unreasonable preference or advantage to any particular person or locality, or any particular person or locality, or any particular description of traffic or service, or to subject any particular person, company, firm, corporation or locality, or any particular description of traffic or service to any undue or unreasonable prejudice or disadvantage." Therefore, under Tennessee law Citizens must offer the residential "win-back" promotion to customers in all their exchanges in the State of Tennessee.

8. If the petition for approval of their "win-back" promotion for current Citizens' residential customers in Sparta and McMinnville exchanges who refer an existing CLEC customer to Citizens is approved or becomes effective, consumers will be unreasonably prejudiced. Tenn. Code Ann. § 65-4-123 declares the telecommunications service policy of the State of Tennessee. It states that "the policy of the state is to foster the development of an efficient, technologically advanced, statewide system of telecommunications services by permitting competition in all telecommunications services markets." Furthermore, § 65-4-123 states "[t]o that end, the regulation of telecommunication services and telecommunication service providers shall protect the interests of consumers without unreasonable prejudice or disadvantage to any telecommunications service provider." Therefore, regulation of telecommunication service providers shall protect the interests of consumers without unreasonable prejudice or disadvantage to any telecommunication services provider. If the residential "win-back" promotion is limited to the McMinnville and Sparta exchanges it will unreasonably prejudice consumers. Citizens may offer the promotion without being disadvantaged by providing the residential "win-back" promotion to all their customers in all their exchanges.

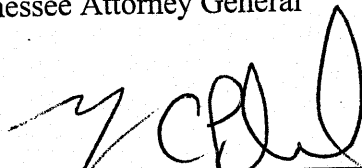
9. Only by participating and/or intervening in this proceeding can the Attorney General accomplish the purposes set forth by the General Assembly thereby representing and protecting the interests of Tennessee consumers in public utility services.

WHEREFORE, the Consumer Advocate and Protection Division of the Office of the Attorney General prays that Citizens Telecommunications Company of Tennessee's petition

is denied or in the alternative that the Authority convene a contested case for the purpose of evaluating the issues in this matter.

Respectfully submitted,

PAUL G. SUMMERS, B.P.R. # 6285
Tennessee Attorney General

A handwritten signature in black ink, appearing to read 'T. Phillips', is written over a horizontal line.

TIMOTHY C. PHILLIPS, B.P.R. #012751
Assistant Attorney General
Office of the Attorney General
Consumer Advocate and Protection Division
P.O. Box 20207
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Dated: January 29, 2002

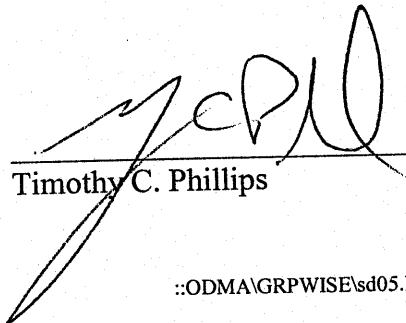
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Complaint and Petition to Intervene was served on parties below via facsimile and U.S. Mail, postage prepaid, on January 29, 2002.

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Nashville, TN 37219

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Timothy C. Phillips

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